

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Teresa N. Cosby,

Plaintiff,

v.

The Legal Services Corporation, Inc.,  
John Eidleman, in his capacity as Vice-  
President of the Legal Services  
Corporation and in his individual  
capacity, Danilo Cardona, in his  
capacity as an employee of the Legal  
Services Corporation and in his  
individual capacity, David de la Tour, in  
his capacity as an employee of the  
Legal Services Corporation and in his  
individual capacity,

Defendants.

C/A No. 6:05-00131-GRA

ORDER

[Written Opinion]

This matter comes before the Court on Defendants' Motion to Dismiss filed July 5, 2005. Counsel for Plaintiff and Defendants presented oral arguments before this Court on July 27, 2005. Defendants' motion is denied at this time for the following reasons.

A motion to dismiss for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil procedure must be granted where it appears beyond doubt that the pleader can prove no set of facts in support of the claim that would entitle her to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

This motion is deemed premature by the Court as no discovery has yet been

taken in this action. Plaintiff is hereby given the Court's permission to amend her complaint within ten (10) days of the date of this Order so as to allege the proper elements for the causes of action therein. After depositions have been completed, Defendants may refile their motion to dismiss if they feel it appropriate at that time.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss be DENIED.

IT IS FURTHER ORDERED that Plaintiff has ten (10) days from the date of this Order within which to file an Amended Complaint in this action.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. ROSS ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

August 1, 2005.